IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

OP.No. 30822 of 2000(T)

PETITIONERS:

1. CHRISTUDAS DANIEL, S/O.DANIEL,
SUPERINTENDENT, BOARD SECRETARIAT,
PATTOM, THIRUVANANTHAPURAM.

2. G.JOHNKUTTY, S/O.K.GEORGE,
SUPERINTENDENT, BOARD SECRETARIAT,
PATTOM, THIRUVANANTHAPURAM.

3. M. VIJAYAMOHANAN PILLAI, S/O.K.MADHAVAN PILLAI,
OFFICE OF CHIEF ENGINEER, (ELECTRICAL GENERAL,
VIDHYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM.

4. K.T.JACOB THARAKAN, S/O.K.C.JOSEPH THARAKAN,
RETIRED SUPERINTENDENT, RESIDING AT KPI 416/B,
MUNDAKKAL LANE, NALANCHIRA P.O.,
THIRUVANANTHAPURAM.

5. K.KRIPAKARAN, S/O.A.A.KUNJAN,
SUPERINTENDENT, OFFICE OF THE FINANCE ADVISOR
AND CHIEF ACCOUNTS OFFICER,
VIDHYUTHI BHAVAN, THIRUVANANTHAPURAM.

6. GEORGE THOMAS, S/O.A.M.THOAS, RCA SECTION,
OFFICE OF THE FINANCE ADVISOR
AND CHIEF ACCOUNTS OFFICER,
VIDHYUTHI BHAVAN, THIRUVANANTHAPURAM.

BY ADVS. SRI.RAJESH NAIR
& SRI.BIJOY CHANDRAN

RESPONDENTS:

1. KERALA STATE ELECTRICITY BOARD, REPRESENTED
BY ITS SECRETARY,
VIDHYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM.

2. CHIEF ENGINEER (ELECTRICAL) GENERAL,
VIDHYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM.

BY ADV. SRI. ASOK M.CHERIYAN, SC, KSEB
SRI.N.D.PREMACHANDRAN, SC, KSEB

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 26/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1: TRUE COPY OF THE CIRCULAR DATED 09.11.98 ISSUED BY THE FIRST RESPONDENT.

EXT.P2: TRUE COPY OF THE ORDER DATED 19.10.96 ISSUED BY THE FIRST RESPONDENT.

EXT.P3: TRUE COPY OF THE JUDGMENT IN O.P.NO.21448/98 DATED 16.12.92 PASSED BY THIS HON'BLE COURT.

EXT.P3(A): TRUE COPY OF THE ORDER DATED 23.07.99 ISSUED BY THE RESPONDENTS TO THE 4TH PETITIONER.

EXT.P3(B): TRUE COPY OF THE ORDER DATED 30.06.99 ISSUED BY THE RESPONDENTS TO THE 6TH PETITIONER.

EXT.P3(C): TRUE COPY OF THE ORDER DATED 18.06.99 ISSUED BY THE RESPONDENTS TO THE 5TH PETITIONER.

EXT.P4: TRUE COPY OF THE JUDGMENT DATED 22.06.00 PASSED IN CCC NO.350/00 PASSED BY THIS HON'BLE COURT.

Ext.P5: TRUE COPY OF RELEVANT PORTION OF SETTLEMENT DATED 02.03.95.

RESPONDENTS' EXHIBITS: NIL

//true copy//

P.S. To Judge

SK/-

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.30822 of 2000

Dated this the 26th day of June, 2007.

JUDGMENT

The Electricity Board noticed an anomaly of seniors getting lesser pay than juniors consequent on the implementation of pay revisions of both workmen and officers of the Board. The Board, accordingly, issued Board order No.2578/96 dated 19.10.1996 ordering in Clause 2 thereof that in cases where senior employee promoted to a higher post before 1.7.1993/1.8.1993 draws lesser pay in the revised pay than his junior, who is promoted to the higher post on or after 1.7.1993/1.8.1993, the pay of the senior employee will be stepped up to that of the junior **with effect from the date on which the junior draws more pay**. To give effect to that position, in consultation with the recognised unions and to fully rectify the anomaly, all the seniors getting lesser pay than their juniors, the pay of the seniors, who got time bound grade promotions on or before 1.7.1993/1.8.1993 were also to be stepped up to that of their juniors who got grade promotions on or after 1.7.1993/1.8.1993.

2. The Board examined such matters in detail and decided to step up the pay of the seniors, who got time bound grade promotions on or before 1.7.1993/1.8.1993, to that of their

juniors who got grade promotions on or after 1.7.1993/1.8.1993 and directed consideration of such placement on condition of each individual requesting for such step up and it will be examined and decided by the Board with reference to the entries in the service book and other conditions stipulated in Ext.P2 Board Order dated 19.10.1996. The aforesaid decision of the Board was circulated for information to the employees as per Ext.P1 circular, while Ext.P2 Board Order dated 19.10.1996 was, obviously, not circulated. Ext.P1 circular does not contain any clause or information regarding any condition that the monetary benefits would accrue only prospectively, as is shown in Clause 4 of Ext.P2 Board Order.

3. The petitioners, who are the beneficiaries of Ext.P1 circular, challenged the imposition of the restriction as per Clause 4 of Ext.P2 Board Order that the monetary benefits as per that order will accrue only prospectively.

4. The administrative exercise resulting in Ext.P1 circular is intended to achieve the rectification of the anomaly of seniors getting lesser pay than juniors and the seniors getting higher grade promotions also requiring to be stepped up to that of their juniors. The concept of granting such rectification was to be

weighed dependent on the date on which the junior draws more pay. Therefore, there cannot be any restriction that the monetary benefits will accrue only prospectively from the date of Ext.P2 order. This is because if such a condition is imposed, that will lead only to further anomaly rather than rectification of the existing anomaly, which is the object sought to be achieved by Exts.P1 and P2.

5. The requirement of the individual to make request to the Board and the consideration on the basis of service book and other conditions stipulated in Ext.P2 order is only to ensure, whether a particular individual, going by the service particulars, is entitled to the benefits of Exts.P1 and P2 and in so doing, if the Board considers to release monetary benefits to some and considers not to release monetary benefits to yet some others retrospectively, that would lead only to further anomalies. So much so, the condition in Clause 4 of Ext.P2 that the monetary benefits will run only prospectively is irrational, illogical and without legitimate basis. The same is, therefore, arbitrary and unconstitutional.

In the result, Clause 4 of Ext.P2 is quashed. The Board will, on the basis of this judgment, take into consideration

individual representations of the petitioners and similarly situated persons, who may file such representations, and take decisions on individual basis, with reference to the service records of each individual in the light of what is stated above. In releasing the benefits, the differential outstanding with effect from 1.8.1993 to 31.10.1996 shall be released.

Original petition is disposed of as above.

Sd/-

(THOTTATHIL B.RADHAKRISHNAN)
JUDGE

sk/

//true copy//

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.30822 of 2000

JUDGMENT

26TH JUNE, 2007.